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Attorneys for Defendants
Ashish Malhotra and Keshvi Dhingra
aka Nikki Neha Dhingra

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

L.A. GEM & JEWELRY DESIGN, INC.,)
a California Corporation,)

Plaintiff,)

v.)

KESHVI DHINGRA aka NIKKI NEHA
DHINGRA, an individual; ASHISH
MALHOTRA, et al; and DOES 1-10)

Defendants.)

Case No. CV-15-07649-SJO-FFM

Hon. S. James Otero

**ANSWER AND AFFIRMATIVE
DEFENSES OF DEFENDANTS
KESHVI DHINGRA aka NIKKI
NEHA DHINGRA AND ASHISH
MALHOTRA TO COMPLAINT OF
L.A. GEM & JEWELRY DESIGN,
INC.; DEMAND FOR TRIAL BY
JURY**

Complaint filed September 29, 2015

ANSWER

Defendants Ashish Malhotra and Keshvi Dhingra aka Nikki Neha Dhingra (“Defendants”), hereby answer the Complaint of Plaintiff L.A. Gem & Jewelry Design, Inc. (“Plaintiff”), as follows:

JURISDICTION AND VENUE

1. Defendants admit that this action purports to invoke the copyright law of the United States, Title 17, United States Code and related claims under Cal. Bus. & Prof. Code § 17200. Defendants deny any remaining allegations of paragraph 1.

2. Defendants deny that venue is proper in the Central District of California and deny any remaining allegations of paragraph 2.

THE PARTIES

3. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3, and therefore deny them.

4. Defendants admit that Defendant Keshvi Dhingra aka Nikki Neha Dhingra is an individual residing in the state of Texas and a principal and central figure in Evening Crystals, LLC. Defendants deny any remaining allegations of paragraph 4.

5. Defendants admit that Defendant Ashish Malhotra is an individual residing in the state of Texas and a principal and central figure in Evening Crystals, LLC. Defendants deny any remaining allegations of paragraph 5.

6. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6, and therefore deny them.

7. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7, and therefore deny them.

8. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8, and therefore deny them.

9. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9, and therefore deny them.

1 10. Defendants are without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 10, and therefore deny them.

3 11. Defendants are without knowledge or information sufficient to form a
4 belief as to the truth of the allegations of paragraph 11, and therefore deny them.

5 12. Defendants are without knowledge or information sufficient to form a
6 belief as to the truth of the allegations of paragraph 12, and therefore deny them.

7 13. Defendants are without knowledge or information sufficient to form a
8 belief as to the truth of the allegations of paragraph 13, and therefore deny them.

9 14. Defendants are without knowledge or information sufficient to form a
10 belief as to the truth of the allegations of paragraph 14, and therefore deny them.

11 15. Defendants are without knowledge or information sufficient to form a
12 belief as to the truth of the allegations of paragraph 15, and therefore deny them.

13 16. Defendants are without knowledge or information sufficient to form a
14 belief as to the truth of the allegations of paragraph 16, and therefore deny them.

15 17. Defendants are without knowledge or information sufficient to form a
16 belief as to the truth of the allegations of paragraph 17, and therefore deny them.

17 18. Defendants are without knowledge or information sufficient to form a
18 belief as to the truth of the allegations of paragraph 18, and therefore deny them.

19 19. Defendants are without knowledge or information sufficient to form a
20 belief as to the truth of the allegations of paragraph 19, and therefore deny them.

21 20. Defendants are without knowledge or information sufficient to form a
22 belief as to the truth of the allegations of paragraph 20, and therefore deny them.

23 21. Defendants are without knowledge or information sufficient to form a
24 belief as to the truth of the allegations of paragraph 21, and therefore deny them.

25 22. Defendants deny the allegations of paragraph 22, and specifically deny
26 that any other defendant was or is the agent, affiliate, officer, director, manager,
27 principal, alter-ego, and/or employee of Defendants, or either of them, and that
28 Defendants, or either of them, were the agent, affiliate, officer, director, manager,

principal, alter-ego and/or employee of any other defendant. Defendants further deny that they actively participated in or subsequently ratified and adopted, or both, any of the acts or conduct alleged.

ALLEGATIONS COMMON TO ALL COUNTS

23. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23, and therefore deny them.

24. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24, and therefore deny them.

25. Defendants admit that they are in the business of marketing and selling jewelry products that are available for purchase and use across the United States, including occasionally in this District. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 25, and therefore deny them.

26. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 26, and therefore deny them.

27. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 27, and therefore deny them.

COMMON ALLEGATIONS RELATED TO MOON PENDANT NO. 1

28. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28, and therefore deny them.

29. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29, and therefore deny them.

30. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30, and therefore deny them.

31. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31, and therefore deny them.

32. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32, and therefore deny them.

33. Defendants admit that Plaintiff has not authorized Defendants to copy, reproduce, manufacture, duplicate, disseminate, or distribute Moon Pendant No. 1 or any jewelry products substantially similar thereto. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 33, and therefore deny them.

34. Defendants specifically deny that they infringed or are liable for infringement of any valid and enforceable claim asserted in this action by Plaintiff. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 34, and therefore deny them.

35. Defendants specifically deny that they infringed or are liable for infringement of any valid and enforceable claim asserted in this action by Plaintiff. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 35, and therefore deny them.

36. Defendants specifically deny that they infringed or are liable for infringement of any valid and enforceable claim asserted in this action by Plaintiff. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 36, and therefore deny them.

COMMON ALLEGATIONS RELATED TO MOON PENDANT NO. 2

37. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 37, and therefore deny them.

38. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 38, and therefore deny them.

39. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 39, and therefore deny them.

40. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40, and therefore deny them.

41. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 41, and therefore deny them.

42. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 42, and therefore deny them.

43. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 43, and therefore deny them.

44. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 44, and therefore deny them.

COMMON ALLEGATIONS RELATED TO MOM PENDANT NO(S) 1 AND 2

45. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45, and therefore deny them.

46. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46, and therefore deny them.

47. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 47, and therefore deny them.

48. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 48, and therefore deny them.

49. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 49, and therefore deny them.

50. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50, and therefore deny them.

51. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 51, and therefore deny them.

52. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 52, and therefore deny them.

53. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 53, and therefore deny them.

54. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 54, and therefore deny them.

1 55. Defendants are without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 55, and therefore deny them.

3 56. Defendants are without knowledge or information sufficient to form a
4 belief as to the truth of the allegations of paragraph 56, and therefore deny them.

5 **COMMON ALLEGATIONS RELATED TO HEART PENDANT**

6 57. Defendants are without knowledge or information sufficient to form a
7 belief as to the truth of the allegations of paragraph 57, and therefore deny them.

8 58. Defendants are without knowledge or information sufficient to form a
9 belief as to the truth of the allegations of paragraph 58, and therefore deny them.

10 59. Defendants are without knowledge or information sufficient to form a
11 belief as to the truth of the allegations of paragraph 59, and therefore deny them.

12 60. Defendants are without knowledge or information sufficient to form a
13 belief as to the truth of the allegations of paragraph 60, and therefore deny them.

14 61. Defendants are without knowledge or information sufficient to form a
15 belief as to the truth of the allegations of paragraph 61, and therefore deny them.

16 62. Defendants are without knowledge or information sufficient to form a
17 belief as to the truth of the allegations of paragraph 62, and therefore deny them.

18 63. Defendants are without knowledge or information sufficient to form a
19 belief as to the truth of the allegations of paragraph 63, and therefore deny them.

20 64. Defendants are without knowledge or information sufficient to form a
21 belief as to the truth of the allegations of paragraph 64, and therefore deny them.

22 65. Defendants are without knowledge or information sufficient to form a
23 belief as to the truth of the allegations of paragraph 65, and therefore deny them.

24 **COMMON ALLEGATIONS RELATED TO BE BRAVE PENDANT**

25 66. Defendants are without knowledge or information sufficient to form a
26 belief as to the truth of the allegations of paragraph 66, and therefore deny them.

27 67. Defendants are without knowledge or information sufficient to form a
28 belief as to the truth of the allegations of paragraph 67, and therefore deny them.

1 68. Defendants are without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 68, and therefore deny them.

3 69. Defendants are without knowledge or information sufficient to form a
4 belief as to the truth of the allegations of paragraph 69, and therefore deny them.

5 70. Defendants are without knowledge or information sufficient to form a
6 belief as to the truth of the allegations of paragraph 70, and therefore deny them.

7 71. Defendants are without knowledge or information sufficient to form a
8 belief as to the truth of the allegations of paragraph 71, and therefore deny them.

9 72. Defendants are without knowledge or information sufficient to form a
10 belief as to the truth of the allegations of paragraph 72, and therefore deny them.

11 73. Defendants are without knowledge or information sufficient to form a
12 belief as to the truth of the allegations of paragraph 73, and therefore deny them.

13 74. Defendants are without knowledge or information sufficient to form a
14 belief as to the truth of the allegations of paragraph 74, and therefore deny them.

15 **COMMON ALLEGATIONS RELATED TO FLOWER PENDANT**

16 75. Defendants are without knowledge or information sufficient to form a
17 belief as to the truth of the allegations of paragraph 75, and therefore deny them.

18 76. Defendants are without knowledge or information sufficient to form a
19 belief as to the truth of the allegations of paragraph 76, and therefore deny them.

20 77. Defendants are without knowledge or information sufficient to form a
21 belief as to the truth of the allegations of paragraph 77, and therefore deny them.

22 78. Defendants are without knowledge or information sufficient to form a
23 belief as to the truth of the allegations of paragraph 78, and therefore deny them.

24 79. Defendants are without knowledge or information sufficient to form a
25 belief as to the truth of the allegations of paragraph 79, and therefore deny them.

26 80. Defendants are without knowledge or information sufficient to form a
27 belief as to the truth of the allegations of paragraph 80, and therefore deny them.
28

1 81. Defendants are without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 81, and therefore deny them.

3 82. Defendants are without knowledge or information sufficient to form a
4 belief as to the truth of the allegations of paragraph 82, and therefore deny them.

5 83. Defendants are without knowledge or information sufficient to form a
6 belief as to the truth of the allegations of paragraph 83, and therefore deny them.

7 **COMMON ALLEGATIONS RELATED TO FRIENDS FOREVER PENDANT**

8 84. Defendants are without knowledge or information sufficient to form a
9 belief as to the truth of the allegations of paragraph 84, and therefore deny them.

10 85. Defendants are without knowledge or information sufficient to form a
11 belief as to the truth of the allegations of paragraph 85, and therefore deny them.

12 86. Defendants are without knowledge or information sufficient to form a
13 belief as to the truth of the allegations of paragraph 86, and therefore deny them.

14 87. Defendants are without knowledge or information sufficient to form a
15 belief as to the truth of the allegations of paragraph 87, and therefore deny them.

16 88. Defendants are without knowledge or information sufficient to form a
17 belief as to the truth of the allegations of paragraph 88, and therefore deny them.

18 89. Defendants are without knowledge or information sufficient to form a
19 belief as to the truth of the allegations of paragraph 89, and therefore deny them.

20 90. Defendants are without knowledge or information sufficient to form a
21 belief as to the truth of the allegations of paragraph 90, and therefore deny them.

22 91. Defendants are without knowledge or information sufficient to form a
23 belief as to the truth of the allegations of paragraph 91, and therefore deny them.

24 92. Defendants are without knowledge or information sufficient to form a
25 belief as to the truth of the allegations of paragraph 92, and therefore deny them.

26 93. Defendants specifically deny that they infringed or are liable for
27 infringement of any valid and enforceable claim asserted in this action by Plaintiff.
28

Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 93, and therefore deny them.

FIRST CAUSE OF ACTION

94. Defendants incorporate by reference their responses to the allegations of paragraphs 1 through 93 above as their response to paragraph 94 of Plaintiff's Complaint.

95. Defendants specifically deny that they infringed or are liable for infringement of any valid and enforceable claim asserted in this action by Plaintiff. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 95, and therefore deny them.

96. Defendants specifically deny that they infringed or are liable for infringement of any valid and enforceable claim asserted in this action by Plaintiff. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 96, and therefore deny them.

97. Defendants specifically deny that they infringed or are liable for infringement of any valid and enforceable claim asserted in this action by Plaintiff. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 97, and therefore deny them.

98. Defendants specifically deny that they infringed or are liable for infringement of any valid and enforceable claim asserted in this action by Plaintiff. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 98, and therefore deny them.

99. Defendants deny the allegations of paragraph 99.

SECOND CAUSE OF ACTION

100. Defendants incorporate by reference their responses to the allegations of paragraphs 1 through 99 above as their response to paragraph 100 of Plaintiff's Complaint.

1 101. Defendants specifically deny that they infringed or are liable for
2 infringement of any valid and enforceable claim asserted in this action by Plaintiff.
3 Defendants are without knowledge or information sufficient to form a belief as to the
4 truth of the remaining allegations of paragraph 101, and therefore deny them.

5 102. Defendants specifically deny that they infringed or are liable for
6 infringement of any valid and enforceable claim asserted in this action by Plaintiff.
7 Defendants are without knowledge or information sufficient to form a belief as to the
8 truth of the remaining allegations of paragraph 102, and therefore deny them.

9 103. Defendants specifically deny that they infringed or are liable for
10 infringement of any valid and enforceable claim asserted in this action by Plaintiff.
11 Defendants are without knowledge or information sufficient to form a belief as to the
12 truth of the remaining allegations of paragraph 103, and therefore deny them.

13 104. Defendants specifically deny that they infringed or are liable for
14 infringement of any valid and enforceable claim asserted in this action by Plaintiff.
15 Defendants are without knowledge or information sufficient to form a belief as to the
16 truth of the remaining allegations of paragraph 104, and therefore deny them.

17 105. Defendants specifically deny that they infringed or are liable for
18 infringement of any valid and enforceable claim asserted in this action by Plaintiff.
19 Defendants are without knowledge or information sufficient to form a belief as to the
20 truth of the remaining allegations of paragraph 105, and therefore deny them.

21 106. Defendants specifically deny that they infringed or are liable for
22 infringement of any valid and enforceable claim asserted in this action by Plaintiff.
23 Defendants are without knowledge or information sufficient to form a belief as to the
24 truth of the remaining allegations of paragraph 106, and therefore deny them.

25 **PRAYER FOR RELIEF**

26 These paragraphs set for the statement of relief requested by Plaintiff to which
27 no response is required. Defendants deny that Plaintiff is entitled to any of the
28

1 requested relief and deny the allegations contained in the Prayer for Relief to which a
2 response is required.

3 Defendants deny each and every allegation of Plaintiff's Complaint not
4 specifically admitted or otherwise responded to above. Defendants specifically deny
5 that they infringed or are liable for infringement of any valid and enforceable claim
6 asserted in this action by Plaintiff. Defendants further specifically deny that Plaintiff is
7 entitled to any relief whatsoever of any kind against Defendants.

8 9 **AFFIRMATIVE DEFENSES**

10 **FIRST DEFENSE**

11 1. The Complaint, and each purported cause of action asserted therein, fails
12 to state facts upon which relief may be granted against Defendants.

13 **SECOND DEFENSE**

14 2. The Complaint, and each and every purported claim for relief thereof,
15 is wholly or partially barred, because the purported copyrights that Plaintiff asserts in
16 this action is invalid, void, or unenforceable. Among other things, a reasonable
17 opportunity for further investigation or discovery is likely to provide evidentiary
18 support for one or more of the following:

- 19
- 20 a. The registration for the purported copyright claims material that is not
21 original or not protectable;
 - 22 b. The registration for the purported copyright claims material is not an
23 original work of art and/or was developed by persons or entities other
24 than Plaintiff;
 - 25 c. The registration for the purported copyright claims material in the
26 public domain; or
27
- 28

1 d. The registration for the purported copyright shows a design drawn to
2 “Scenes a Faire,” and is ordinary, commonplace, or standard in the
3 relevant art or industry.

4 **THIRD DEFENSE**

5 3. Plaintiff has no standing to assert claims for copyright infringement
6 because, among other things, Plaintiff is not the owner and/or author of any purported
7 copyright that it asserts in the action.

8 **FOURTH DEFENSE**

9 4. Plaintiff’s claims are barred or limited by the applicable statute of
10 limitations, and among other things, Plaintiff is barred from seeking recovery for any
11 of Defendants’ alleged infringements occurring more than three years before the filing
12 of the Complaint, under Section 507 of Title 17 of the United States Code.

13 **FIFTH DEFENSE**

14 5. Plaintiff’s claims are barred or limited because Plaintiff has sustained no
15 loss or damages.

16 **SIXTH DEFENSE**

17 6. Plaintiff’s claims are barred or limited because Plaintiff has engaged in
18 anticompetitive actions in violation of the Sherman Act, the Clayton Act, or the
19 Cartwright Acts.

20 **SEVENTH DEFENSE**

21 7. Plaintiff’s copyright is invalid, for failure to comply with the conditions
22 of federal and state copyright registration.

23 **EIGHTH DEFENSE**

24 8. Plaintiff’s claims are barred or limited because Plaintiff failed to properly
25 mark its alleged copyrighted materials and to give Defendants’ proper notice of its
26 claimed copyright.

NINTH DEFENSE

9. Plaintiff's claims are barred or limited because none of the alleged infringing works are substantially similar to any alleged copyrighted work that is asserted in the action by Plaintiff.

TENTH DEFENSE

10. Plaintiff's conduct with regards to the matters alleged in the Complaint was such that Plaintiff's claims are barred or limited because Plaintiff impliedly granted these or other Defendants in this action or non-parties to this action a license to hold, use, reproduce, distribute, or sell the materials, works, designs, or products against which Plaintiff asserts its purported copyright in this action.

ELEVENTH DEFENSE

11. Defendants acted in a commercially reasonable and lawful manner. Each and every act or statement done or made by Defendants was a good faith assertion of Defendants' rights and, therefore, was privileged and justified.

TWELFTH DEFENSE

12. Plaintiff's conduct with regards to the matters alleged in the Complaint was such that Plaintiff's claims are barred or limited by the equitable doctrine of unclean hands from obtaining the relief requested against Defendants.

THIRTEENTH DEFENSE

13. Plaintiff's conduct with regards to the matters alleged in the Complaint was such that Plaintiff's claims are barred or limited by the equitable doctrine of laches from obtaining the relief requested against Defendants.

FOURTEENTH DEFENSE

14. Defendants specifically deny that they have infringed or are liable for infringement of any valid and enforceable copyright of Plaintiff because, among other things, any alleged infringing works have not copied any purported original and protectable elements of Plaintiff's alleged copyrighted work.

FIFTEENTH DEFENSE

15. Plaintiff is barred from obtaining any relief due to its fraud or deception for which a reasonable opportunity for investigation or discovery is likely to provide evidentiary support, including but not limited to, fraud upon the U.S. Copyright Office.

SIXTEENTH DEFENSE

16. Defendants specifically deny that they have infringed or are liable for infringement of any valid and enforceable copyright of Plaintiff. If, however, Defendants are found to be liable or responsible for any or all of the alleged damages or loss, Defendants allege that Plaintiff's claims are barred or limited by the legal doctrine of "de minimis" use.

SEVENTEENTH DEFENSE

17. Plaintiff's conduct with regards to the matters alleged in the Complaint was such that Plaintiff's claims are barred or limited by the equitable doctrine of misuse from obtaining the relief requested against Defendants.

EIGHTEENTH DEFENSE

18. Plaintiff's conduct with regards to the matters alleged in the Complaint was such that Plaintiff's claims are barred or limited by the equitable doctrines of acquiescence, estoppel, or waiver.

NINETEENTH DEFENSE

19. The complaint fails to state facts sufficient to constitute any claim for attorneys' fees against Defendants; and therefore, no such award should be granted.

TWENTIETH DEFENSE

20. Plaintiff is not entitled to statutory damages or attorneys' fees pursuant to 17 U.S.C. § 412.

TWENTY-FIRST DEFENSE

21. Defendants specifically deny that they have infringed or are liable for infringement of any valid and enforceable copyright of Plaintiff. If, however,

1 Defendants are found to be liable or responsible for any or all of the alleged damages
2 or loss, Defendants allege that they are not the proximate cause of the damage or loss.

3 **TWENTY-SECOND DEFENSE**

4 22. Defendants specifically deny that they have infringed or are liable for
5 infringement of any valid and enforceable copyright of Plaintiff. If, however,
6 Defendants are found to be liable or responsible for any or all of the alleged damages
7 or loss, Defendants allege that Plaintiff failed to discharge its duty to mitigate
8 damages for which a reasonable opportunity for investigation or discovery is likely to
9 provide evidentiary support; and any damages awarded to Plaintiff should be reduced
10 accordingly.

11 **TWENTY-THIRD DEFENSE**

12 23. Defendants specifically deny that they have infringed or are liable for
13 infringement of any valid and enforceable copyright of Plaintiff. If, however,
14 Defendants are found to be liable or responsible for any or all of the alleged damages
15 or loss, Defendants allege that they are not the sole proximate cause of the damage or
16 loss and that the damages awarded to Plaintiff, if any, should be apportioned
17 according to California state law by each parties' respective fault and legal
18 responsibility of all parties, persons and entities, and their agents, servants, and
19 employees who contributed to and/or caused such damages or loss according to the
20 proof presented at the time of trial.

21 **TWENTY-FOURTH DEFENSE**

22 24. Defendants specifically deny that they have infringed or are liable for
23 infringement of any valid and enforceable copyright of Plaintiff. If, however,
24 Defendants are found to be liable or responsible for any or all of the alleged damages
25 or loss, Defendants acted, at all times, in good faith, innocent of any knowledge or
26 intent to infringe Plaintiff's rights or cause damage to Plaintiff; and if such good faith
27 and lack of intent does not preclude liability, any general or statutory damages
28 awarded to Plaintiff should be reduced accordingly.

TWENTY-FIFTH DEFENSE

25. Defendants specifically deny that they have infringed or are liable for infringement of any valid and enforceable copyright of Plaintiff. If, however, Defendants are found to be liable or responsible for any or all of the alleged damages or loss, Defendants allege that any alleged damages sought by Plaintiff in the form of Defendants' profits are limited by the apportionment theory based on the percentage of profits attributable to the alleged infringing work.

TWENTY-SIXTH DEFENSE

26. Plaintiff's claims are barred or limited because Plaintiff has failed to join indispensable or necessary parties for a full and complete adjudication of its claims, including without limitation as required by Rule 19 of the Federal Rules of Civil Procedure with a reasonable opportunity for investigation or discovery being likely to provide evidentiary support.

TWENTY-SEVENTH DEFENSE

27. Plaintiff is not entitled to injunctive relief as it, at a minimum, has not suffered any alleged irreparable injury and has an adequate remedy at law.

TWENTY-EIGHTH DEFENSE

28. Upon information and belief, Plaintiff's claims are barred because it abandoned its purported copyrights by failing to take action to prevent overseas copying of its purported copyrights.

TWENTY-NINTH DEFENSE

29. Defendants presently have insufficient knowledge or information on which to form a belief as to whether they may have additional, as yet unstated, affirmative defenses available. Defendants reserve the right to assert additional defenses, including but not limited to, res judicata and collateral estoppel, in the event that the discovery indicates that they would be appropriate.

RELIEF REQUESTED BY DEFENDANTS

WHEREFORE, Defendants Ashish Malhotra and Keshvi Dhingra aka Nikki Neha Dhingra (“Defendants”) pray for judgment against Plaintiff as follows:

1. That the Complaint be dismissed in its entirety, with prejudice;
2. That Plaintiff take nothing by reason of this Complaint and that judgment be entered against Plaintiff in favor of Defendants;
3. That Defendants be awarded their attorneys’ fees and costs incurred in defending this action;
4. That Defendants be granted such other and further relief as the court may deem just and proper.

Dated: December 28, 2015

Respectfully submitted,

witkowlaw | a professional law corporation

By: /s/Cory A. Baskin

Brandon J. Witkow

Cory A. Baskin

Attorneys for Defendants Ashish Malhotra
and Keshvi Dhingra aka Nikki Neha
Dhingra

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Rule 38-1 of the Local Rules of this Court, Defendants Ashish Malhotra and Keshvi Dhingra aka Nikki Neha Dhingra demand a trial by jury of all issues so triable in this action.

Dated: December 28, 2015

Respectfully submitted,

witkowlaw | a professional law corporation

By: /s/Cory A. Baskin

Brandon J. Witkow

Cory A. Baskin

Attorneys for Defendants Ashish Malhotra
and Keshvi Dhingra aka Nikki Neha
Dhingra